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Federal Communications Commission  
Office of the Secretary

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

In the Matter of: )  
Request of A.C. Nielsen Co. )  
for Permissive Use of Line )  
22 of the Active Portion of )  
the Television Video Signal )

DA 89-1060

DOCKET FILE COPY ORIGINAL

**VIDCODE'S OPPOSITION TO NIELSEN'S MOTION  
TO CLARIFY AND REQUEST FOR LEAVE TO FILE**

On May 10, 1990, VidCode Inc. ("VidCode") filed with the Commission a motion to withdraw the special temporary permissive authority granted to A.C. Nielsen Company ("Nielsen") to encode line 22 of the active portion of the television video signal. On the next day, Nielsen filed a document identified as a "Motion to Clarify" the scope of its special temporary authority, seeking explicit authority to encode broadcast materials using Line 22.

As VidCode demonstrated in its Motion to Withdraw, Nielsen's authority -- and the restrictions imposed by the Commission thereon -- are clear from the face of the Commission's November 22, 1989 letter. Thus, in reality, Nielsen seeks not to "clarify" its authority, but to have the Commission amend it by striking the restrictions imposed therein.

In particular, Nielsen seeks to have the Commission strike from the letter the explicit requirement that Nielsen must ensure that its encoding not occur on commercial materials. As

the Commission correctly concluded in imposing this restriction, Nielsen should not be allowed use its monopoly position in ratings services to predate on its competitors for commercial broadcast verification services. Nothing in Nielsen's motion suggests that the Commission erred in imposing these restrictions. To the contrary, Nielsen's filings reflect Nielsen's open intention to act in just this fashion. Thus, Nielsen has failed to demonstrate any valid basis for the Commission to amend its letter of November 22, 1989.

In addition, on May 21, 1990, Nielsen filed an Opposition to VidCode's Motion to Withdraw. VidCode intends to file a response to that document. Finalization of VidCode's response, however, will be delayed because essential personnel at VidCode will be abroad until at least June 5, 1990. While this proceeding has not been subject to strict application of Commission procedural rules, VidCode wishes to place all parties on notice of our intention to file a further opposition, and, to the extent necessary, to seek leave to file such document no later than June 8, 1990.

Respectfully submitted,

*Bruce H. Turnbull*

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Kevin McMahon  
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Date: May 22, 1990

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Certificate of Service

I, Dolores M. Furnari, a secretary in the law firm of Weil, Gotshal & Manges, hereby certify that copies of the foregoing opposition to Motion to Clarify and Request for Leave to File were served this 22nd day of May, 1990 by hand and/or first class mail postage prepaid on the following:

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